

City of Ellsworth  
Planning Board Workshop Minutes  
**Wednesday, November 2, 2022 5:30 PM**

Chair John DeLeo, Vice-Chair Rick Lyles, Secretary Nelson Geel, Members Marc Rich and Molly Friedland, and Alternate Members Patrick Lyons and Michael Hangge attended the regular meeting of the Ellsworth Planning Board.

Assistant Planner Matthew Williams, Code Enforcement Officer (“CEO”) Lori Roberts, and Fire Chief Scott Guillerault attended the meeting.

**1.) Call to Order**

Chair DeLeo called the meeting to order at 5:32 PM.

**2.) Adoption of Minutes** from the October 5, 2022 regular meeting. Vice- Chair Rick Lyles moved to approve the minutes as written. Molly Friedland seconded the motion, and with no further discussion, the motion passed unanimously **(5-0)**.

**3.) Revision to an approved Subdivision entitled Marion S. Sullivan Subdivision for Applicant/Owner Phippen Properties, LLC. The proposal is to divide one of four lots on the previously approved plan into two. The property is a 4.29-acre lot located at 334 Grant Street (Tax Map 33, Lot 66) in the Neighborhood (N) Zoning District.**

Steve Salsbury of Herrick & Salsbury was present.

Mr. Salsbury stated they are taking a roughly four-acre lot and splitting it in two. The dimensional standards for lot sizes have been met and there is a surplus in acreage for the zone. The owner is constructing a duplex on the second lot.

Chair DeLeo asked for confirmation that this project comes before the Planning Board to rectify that no one caught the land was part of an old subdivision and splitting the lots needed Planning Board approval.

Mr. Salsbury stated it was missed by both the Applicant and the City.

Chair DeLeo asked for confirmation that the first lot with the existing single family home is two acres and the second lot for the duplex will be 2.29 acres.

Mr. Salsbury confirmed and stated that the minimum lot size in the Neighborhood zone is half and acre so both exceed the minimum requirements.

Vice-Chair Lyles asked why the lot is being split.

Mr. Salsbury stated the Applicant is keeping the duplex separate from the existing single family house for financing purposes.

Mr. Lyons asked if the lots meet all other minimum requirements.

**Seven board members present**

**Three staff members present**

**Call to Order**

**Adoption of minutes**

**Revision to an approved subdivision entitled Marion S. Sullivan Subdivision**

**Introduction**

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Mr. Salsbury stated in the affirmative.

Chair DeLeo asked if there were any comments from staff.

Assistant Planner Williams stated that the lots exceed minimum lot requirements. All setbacks are listed and a proposed leach field is shown. The revision is good to go.

**Chair DeLeo opened for public hearing at 5:37 PM.**

**With no comment, Chair DeLeo closed public hearing at 5:37 PM.**

**Nelson Geel made a motion to APPROVE the revision to a previously approved subdivision entitled Marion S. Sullivan Subdivision for Applicant/ Owner Phippen Properties, LLC. Marc Rich seconded. Before voting, Chair DeLeo wanted to check to see if anyone attending by Zoom had public comment that was missed. Technology Systems Assistant Nate Burckhard stated there was nobody who wanted to speak on this project.**

**The motion passed unanimously (5-0).**

**4.) Preliminary Plan for a Major Use Site Development entitled Boggy Brook Substation Expansion for Applicant/Owner Versant Power. The proposal is to expand the substation yard. The property is a 51.73-acre lot located at 17 Industrial Road (Tax Map 59, Lot 14) in the Urban (U) Zoning District.**

Sean Hale from VHB was present. Jeff Fenn for Owner/Applicant Versant Power was present.

Mr. Hale stated the existing substation has been present at the site for about 20 years. In order to install new electrical equipment, Versant is proposing an expansion of the existing substation. The current footprint is about 55,000 sq. feet, the expansion would add an additional 42,000 sq. feet to the site. This project is an expansion of the gravel yard and associated fence line to accommodate new equipment. Mr. Fenn can provide a description of that equipment and the need for it. In terms of the application and compliance with local standards, there's about 7,000 sq. feet of wetland impact. A joint site law and NRPA application has been filed with DEP. An application will also be sent to the Core of Engineers for permitting of the wetland impacts. The Applicant has submitted a detailed stormwater management plan to the DEP and the City. This is a straightforward project. There is an existing access road to the substation. There will be a minor adjustment to the gravel portion of the access road at the gate of the station, but other than that there are no changes to access or use of the site.

Mr. Fenn stated that the project is driven by ISO New England. ISO New England is the regional transmission operator who all utilities report to on the transmission side of the work. They deal with bigger system planning and understand the ties that go to

**Public Hearing**

**Public Hearing  
closed**

**Revision to an  
approved  
subdivision entitled  
Marion S. Sullivan  
Subdivision is  
APPROVED.**

**Preliminary Plan  
for a Major Use Site  
Development for  
Applicant/Owner  
Versant Power  
entitled Boggy  
Brook Substation  
Expansion**

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Brunswick and the ties that go to New York. Based on the studies they do, they have an understanding of the stressors on a system and the issues and concerns that could arise. Depending on the load and generation, there is a particular contingency that creates a voltage collapse in the area. This system begins with a line in the Bangor area and follows the northern route to Jonesboro and comes back around through this area. The line then continues west out to Bucksport and Orrington in that general area. In certain contingencies, this whole loop is subject to voltage collapse. This is when the voltage begins to degrade and it gets to a point where there's no bringing it back. You can't drop load or add generation. This could potentially cascade to the rest of the system. Versant would like to avoid that scenario, so what they will be installing is a synchronous condenser. This is an incredibly large motor that is spinning around. When the motor spins and the system runs into problems, it can absorb or inject voltage depending on what the system needs.

Chair DeLeo asked if this project is to stabilize the power within Hancock County and Washington County.

Mr. Fenn stated that is correct, but it also feeds back into the rest of the State. But the project will largely support the Downeast area.

Chair DeLeo stated the project is not occurring within a residential zone, but is close to houses. He asked if there would be significant noise created as a result of the condenser.

Mr. Fenn stated that the building created to house the condenser will be sound insulated to reduce any noise created, but he could not say it would eliminate the noise entirely. The manufacturer of the condenser has been informed of noise level regulations the Applicant has to follow at the property line and they are confident there will be no problem in meeting that.

Mr. Hale stated as part of the site law amendment, a sound study was completed and submitted to DEP and that study was sent to the City of Ellsworth as well.

Chair DeLeo stated that the closest residence is roughly half a mile away.

Mr. Lyons asked if the sound study satisfied DEP's sound standards.

Mr. Hale stated that the Applicant asserts that the sound generated falls within standards, but the application was turned in a week ago so there have not been return comments from DEP yet.

Vice-Chair Lyles asked what traffic generation would be like during construction.

Mr. Hale stated they do not anticipate any traffic issues with construction. There will be construction crews onsite and equipment coming and going.

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Vice-Chair Lyles asked if there were any indication of how big the crews would be on the site.

Mr. Fenn stated there would likely be less than a dozen crew members onsite at the peak. There will be different crews performing different stages of the project. There will be a crew to put up the building to house the condenser, then they disappear. There will be a different crew to come in and put the condenser in the building, then they disappear and so on. There are a lot of people involved with the project, but they are not onsite at the same time.

Vice-Chair Lyles asked for clarification that once the site is fully built, there would not be anyone onsite full time.

Mr. Fenn stated that is correct.

Mr. Hangge asked if they will be accessing the site from Route 180.

Mr. Fenn stated yes, but only through the existing access road. There would be no new access road passed the transfer station.

Vice-Chair Lyles asked if any existing lines or structures need to be moved during construction.

Mr. Fenn stated that some existing structures will be re-located because they need to make space to put the building in. But there are no changes to the electrical lines.

Mr. Lyons asked Staff why there are so many incompletes on the checklist provided to the Board.

Assistant Planner Williams stated the checklist was still in its draft format. Many of the incompletes were for small edits to the site plan, which the Applicant made after TRT suggestions.

Mr. Geel asked if all of the abutters to the site have been notified at this point.

Assistant Planner Williams stated that about two days after the initial notices went to the incorrect abutters list due to a clerical error on the application, the correct abutters list was notified. The Applicant also sent out abutters notices with a cover letter to the correct list via Fedex.

Mr. Lyons mentioned this is also a Preliminary Hearing, so when it comes back for Final Hearing, the correct abutters will have notice of that as well.

Vice-Chair Lyles asked if the Applicant had to follow similar abandonment protocol as solar developers do in case the site is left unused.

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Staff indicated that they are not.

Vice-Chair Lyles stated there needs to be clarification between the Applicant and Staff before Final Hearing.

Mr. Hale stated the Applicant is not subject to the same decommissioning requirements as a solar project.

Chair DeLeo stated that this confused him as well. In the application it mentions decommissioning as it applies to solar farms, even though this is not a solar project.

Mr. Hale stated the language should not have been included in the application.

Mr. Geel asked if there are any scheduled power outages for the time the project is under construction.

Mr. Fenn stated there are scheduled outages, but not ones that directly impact the customer base.

**Chair DeLeo opened the public hearing at 5:50 PM.**

**Public Hearing**

Larry Dowling, a resident on Boggy Brook Road, asked how the noise level from the new equipment would impact where he lives.

Mr. Fenn stated that Boggy Brook Road was the location focused on in the sound study. And that is the study that they assert will not be adversely affected by the noise.

Mr. Dowling stated it is nice and quiet on the road now and he doesn't want loud noises to be added to the environment.

Mr. Hale stated they will meet all noise standards of the State. The building is constructed to insulate noise and mitigate the sounds that can be heard from the machinery.

Vice-Chair Lyles asked if the State will provide a response to the sound study stating if they agree with the Applicant's findings.

Mr. Hale stated in the affirmative.

Mr. Dowling stated he just wants to make sure there's no noise.

Mr. Geel added it's not zero noise, but there is regulation for how much noise, time of day and day of the week, etc.

Mr. Dowling then asked if the construction crew will be going up Boggy Brook Road at all.

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Mr. Fenn stated no.

Mr. Lyons asked that the Applicant provide a summary of the sound study to Staff.

Mr. Hale stated it is a short study, but they will forward it to Staff.

Chair DeLeo asked if there were any participants on Zoom.

Mr. Burckhard answered there was no public participation from the Zoom audience.

**Chair DeLeo closed the public hearing at 5:53 PM.**

**Rick Lyles made a motion to find the Preliminary Plan for a Major Use Site Development for Applicant/Owner Versant Power entitled Boggy Brook Substation Expansion is COMPLETE.**

**Marc Rich seconded the motion and with no further comment, the motion passed unanimously (5-0).**

Vice- Chair Lyles reiterated that a negative finding from the State regarding the sound study could hold up Final approval.

Mr. Hale asked for clarification on when the project's final plans could be signed.

Assistant Planner Williams stated that applications for Major Use Site Development must come before the Planning Board twice. This is the Applicant's Preliminary Hearing and there is a Final Hearing at a later month when the Applicant files those materials.

Mr. Hale asked since the public hearing is closed, does it require the Applicant to be there or is it just an opportunity for the Board to vote.

Chair DeLeo responded that there is public hearing at both the Preliminary and Final Hearing so a representative for the Applicant should be present to answer questions from the public.

Mr. Hale asked what information would be necessary to add to their application for Final Hearing.

Assistant Planner Williams stated a copy of the sound study and any results from DEP would be helpful in the Final Hearing.

**5.) Final Plan Review for a Major Use Site Development and Major Subdivision entitled Tinker Hill Condominium Development for Applicant/Owner The Wright Buzz, LLC. The proposal is to construct multifamily dwellings totaling 54 condominium units in 23 buildings. The property is a 34.1-acre lot located on**

**Public Hearing  
closed  
Preliminary Plan  
for Major Use Site  
Development  
entitled Boggy  
Brook Substation  
Expansion is  
COMPLETE.**

**Final Plan Review  
for a Major Use Site  
Development and  
Major Subdivision**

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**Tinker Farm Way (Tax Map 21, Lot 3) in the Limited Residential Shoreland (LR), Neighborhood (N), and Resource Protection Shoreland (RP) Zoning Districts.**

Rene Courtemanche of Hedefine Engineering was present. Diane Morabito of Sewall Company was present via Zoom. Jeff Buzzell for the Owner/Applicant was present.

Mr. Courtemanche stated there have been some updates to the plan since Preliminary Hearing. There was updated language reflecting the type of firewalls being installed in between the buildings. This is reflected on Plan C-1. The Applicant also hired Sewall Company to complete an additional traffic study per the request of the Board. The plan submitted at the Planning Board deadline shows a phased approach in case the traffic study was not finished, but now that it is the Applicant requests the Board approve the full build out.

Vice-Chair Lyles asked if the traffic study was for full build out and not the phased approach.

Ms. Morabito stated it was for a full build out.

Vice- Chair Lyles asked what the sight distance was for the driveway of the project and what the prevailing speed that distance was safe at.

Chair DeLeo stated that the City standard is 400 feet, and the turns at the property should meet that, maybe the brush on the left side needs to be trimmed a little.

Mr. Geel asked if the Water Street/ Main Street traffic signal was included in the original traffic study.

Ms. Morabito stated that it was not. The development would have only created 17 additional trips on that stretch of road and it was not a significant increase in traffic.

Vice- Chair Lyles stated that 17 vehicles on a busy stretch of road such as the discussed intersection is not statistically significant.

Chair DeLeo asked for the City's view on the road maintenance for the main road in the development.

Assistant Planner Williams stated that road maintenance is required to be established prior to approval and the developer is working with current condo residents to draft condominium association documents detailing road maintenance and other provisions.

Chair DeLeo asked Mr. Buzzell what the agreement for road maintenance is.

Mr. Buzzell stated there is an existing road association that is run by the residential homeowners, not the condo owners. The condo association pays into the road association, but they do not own the road. The developer would like to re-tar the road

entitled Tinker Hill Condominium Development for Applicant/ Owner The Wright Buzz, LLC

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and will participate in road association meetings.

Mr. Courtemanche stated that within the draft covenants there are requirements for condo owners to pay into road maintenance, stormwater maintenance, etc.

Code Enforcement Officer Roberts stated that the Applicant must provide engineer reports.

Chair DeLeo asked again that he just wants to know that the roads were built to City standards.

Vice-Chair Lyles asked who would be responsible for overseeing that a developer builds a road to City standards.

Code Enforcement Officer Roberts stated that before she can issue a Certificate of Occupancy to the developer, she would need to inspect the road or be given engineer reports showing the road is built to City standards.

**Chair DeLeo opened the public hearing at 6:12 PM.**

Michelle Camarco, a current condo resident and Treasurer of the Tinker Hill Condo Association, asked who owns Tinker Farm Way. The road is listed as owned by a defunct homeowner's association. The condo association does not own the road and is not listed as an owner.

Vice-Chair Lyles asked who pays for plowing.

Ms. Camarco stated the condo association does, but the homeowners do not pay into that pool for maintenance.

Vice-Chair Lyles asked if there is anything the condo association has done to maintain the road.

Ms. Camarco stated she can't answer to the past, but there are two potholes they are looking to fill right now. They maintain the road they don't own because no one else does.

Vice-Chair Lyles asked if no one takes responsibility for the road.

Mr. Courtemanche stated in a way, yes. But due to the covenants in the condo deeds, the owners will have to pay in for road maintenance.

Ms. Camarco stated that the condos are bound by those restrictions, but the homeowners on the street do not.

**Chair DeLeo closed the public hearing at 6:17 PM.**

**Public Hearing**

**Public Hearing  
closed**



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Chair DeLeo asked to what extent the condo association is to plowing the road to the end. The current condo owners are paying for the whole road to be plowed, but they're only on the first few hundred feet of road.

Mr. Buzzell stated he does not know because they are only a member of the condo association. The condo association needs to talk to the homeowners and loop them into road maintenance.

Chair DeLeo asked if there is a right of way for the condo development.

Mr. Courtemanche stated there is a right of way deed back when the development was originally approved in 2006.

A discussion occurred determining whether the Planning Board needed to resolve if the condo association had the right to maintain the road. The Plan on record shows ownership of the road to the condo association and the deed does not exclude the road in its description. If road maintenance is included in the condo deeds, then right, title, and interest should be satisfied. As long as finalized condo deeds are turned in to Staff.

**Rick Lyles made a motion to find the Final Plan for a Major Site Use Development/ Major Subdivision entitled Tinker Hill Condominium Development for Applicant/Owner The Wright Buzz, LLC is APPROVED WITH CONDITION: 1. Proof of complete road maintenance agreements for condo owners are turned into Staff.**

**Nelson Geel seconded the motion and with no further comment, the motion passed unanimously (5-0).**

**6.) Proposed amendments to Chapter 56 Unified Development Ordinance, Article 3 Zoning Districts, Article 6 Site Development Review, Article 8 Performance Standards, and Article 14 Definitions. The proposed amendments will refine existing permitted use categories, major use site plan development review applicability thresholds, performance standards, and/or definitions, primarily as they relate to stand-alone solar energy systems affected by the current moratorium.**

Assistant Planner Williams requested that the Board continue its discussion of the solar ordinance with the decommissioning language.

Edits to this section included requirements to meet State permitting. There was a discussion about the reference to best practices in decommissioning. It was decided to find a better reference to consistent best practice standards.

There was a discussion about how much salvage value should be incorporated in determining decommissioning costs. It was settled to wait and hear public comment before settling on a stance.

**Final Plan for a Major Use Site Development and Major Subdivision entitled Tinker Hill Condominium Development is found to be APPROVED w/ CONDITION.**

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There was a discussion about whether the City can protect small land owners after leasing their land if the development is abandoned. It was settled that the site plan process filed with the City allows the City to use the funds collected for decommissioning to enter the land it is on to remove it.

**Chair DeLeo opened public comment at 7:02 PM.**

Chris Byers, a solar consultant with Branch Renewable Energy, stated he had public comment. Chris stated that NREL is a legitimate group, but are viewed more as technical experts, not policy. They do not have authority to compel people to follow their best practices. Their decommissioning cost estimates seem expensive. Mr. Byer suggested getting in line with DEP standards for decommissioning, including that DEP does not allow for salvage estimates in decommissioning. It is too difficult to determine its value 40 years from now. Part of what makes determining costs of decommissioning tricky is that DEP does not provide consistent guidance on how to establish costs.

Chair DeLeo asked if Mr. Byers wanted to discuss stormwater.

Mr. Byers stated he is here to be a sounding board. Steve Blake is on Zoom who is the engineer who prepared the letter discussing stormwater he provided last meeting. The extra impervious surface would create more detention ponds.

Mr. Blake added that he is just here to answer questions.

Chair DeLeo stated that nobody wants to increase detention ponds and his feeling is the Board agrees that panels do not need to be considered impervious.

The Board discussed how there are vegetation standards within the ordinance and how this should satisfy the stormwater protections. Footings or racking foundations will be included in the stormwater calculations.

The Board discussed the challenges in regulating the type of fertilizer and vegetation on solar developments. Stating that you need perennial and native plants is good, but if the plants don't compete other species then can the Board force the development to dig up those plants and try again.

Mr. Byers stated that developments he has worked on try to source plants locally so the language suggested is adequate. Enforcement is tricky, but better to keep the requirements.

**Chair DeLeo closed the public hearing at 7:27 PM.**

Vice-Chair Lyles suggested that Staff continue to look at changes to the Ordinance.

**Public Hearing**

**Public Hearing  
closed**

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Mr. Geel stated that is a good idea because the Board has many projects that cause more questions than solar development.

Ms. Friedland stated that the Comprehensive Plan could assist in developing some of these changes and guiding the Board's priorities.

Assistant Planner Williams stated that Staff makes changes to the Ordinance in chunks because there is great expense in revising the Ordinance because of mailings to City residents.

**7.) Adjournment**

Vice-Chair Lyles made a motion to adjourn the meeting. Mr. Rich seconded the motion and with no further discussion, the motion passed unanimously **(5-0)**. The meeting was adjourned at 9:45 PM.

Minutes prepared by: Matthew Williams, Assistant City Planner.

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**Date**

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**Nelson Geel, Secretary  
Ellsworth Planning Board**

**Vote to adjourn at  
7:32 PM**

*Agendas and minutes  
posted on the City of  
Ellsworth's website:  
[ellsworthmaine.gov](http://ellsworthmaine.gov)*

A video transcript of  
this meeting is also  
available on  
YouTube.